IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 21267 of 1999

Between:

The Depot Manager, A.P.S.R.T.C., Warangal.I Depot.

..... PETITIONER

AND

1 G.Komuraiah, E.83584. Driver , APSRTC., Warangal.I Depot
R/o.Pingerla
(Died)
2 The Indl.Tribunal-cum-labour Court at Warangal.
3 Smt.G.Lakshmi, W/o.late Sri G.Komaraiah,
R/o.31-188, Lakshmipuram, Opp.Bus stand, Warangal.
4 Kum.G.Saraja, S/o.Late Sri G.Komaraiah,
R/o.31-188, Lakshmipuram, Opp.Bus Stand,
Hanamkonda, Warangal district.
5 Kum. G.Swerana Latha, S/o.late G.Komeraiah,
R/o.31-188, Lakshmipuram, Opp.Bus Stand,
Hanamkonda, Warangal district.
6 Mr. Venu Kumar, S/o.Late Sri G.Komaraiah,
R/o.31-188, Lakshmipuram, Opp.Bus Stand,
Hanamkonda, Warangal district.

3 to 6 are brought on records LRS of the deceased R1 as per court order in WP MP 1085/01 dt.21/8/02.

.....RESPONDENTS

Petition under Article 226 of the Constitution of india praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, direction or order particularly a writ in the nature of a Writ of Certiorati calling for the records pertaining to the award in I.D. No.29/96 of the Indl. Tribunal-Cum-Labour court, Warangal dated 26.12.98 and published on 27.4.99 and quash the same as being illegal, arbitrary and unjust and pass all such other orders.

Counsel for the Petitioner: SMT.G.JYOTHI KIRAN

Counsel for the Respondent No.2: G.P. FOR LABOUR

Counsel for the Respondent Nos.3 to 6: A.K.Jaya Prakash Rao,

The Court made the following :

ORAL ORDER

The first respondent herein, since deceased and represented by respondent Nos.3 to 6 as his legal representatives, was a driver in A.P.S.R.T.C. Three charges were framed against him by the charge-sheet dated 25-03-1992;

a. for having entered into the depot premises at about 11.00 P.M on 11.3.1992 unauthorisedly, though not on duty;

b. for having thrown out two spring blades and throwing out another two spring blades from the depot outgoing gate, during which act, he was caught red-handed by the on duty security guard Sri K.Ramachander, and;

c. for having escaped from the hands of the security guard and ran away from the depot premises.

In an eventual departmental enquiry, the workman was visited with the penalty of removal from service. Aggrieved, the workman preferred a departmental appeal. The appellate authority vide proceedings dated 13-12-1994 reinstated him into service as M.M.O Driver Grade-II at the minimum of the driver scale while asking the workman to furnish the security deposit afresh. The appellate authority found that the evidence on record did not establish the allegation of theft, but, nevertheless proceeded to record that taking a lenient view, the punishment of reinstatement into service as MMO Driver Gr.II at the minimum of the driver scale and asking for furnishing the security deposit afresh, is imposed. The conclusions as to the guilt of the workman as recorded by the appellate authority are as under: -

> "Based upon the available recorded evidence after perusing the witness statement the lenient view taken since the security guard did not establish clearly about the theft offspring blades and the statement of watchman is not recorded at preliminary enquiry or at domestic final enquiry level under benefit of doubt which goes in favour of party (Driver). Also examined the numbered years service put up by the party in APSRTC and reinstated into service."

Aggrieved by the appellate order, the workman sought a reference from the State Government to the Industrial Tribunal. By an order dated 14-12-95 a reference under Section 10(1)© of the Industrial Disputes Act,1947 was made to the Industrial Tribunal-cum-Labour Court, warangal. The Labour Court by the award dated 26-12-1998 set aside the appellate order as well as the primary order and declared that the workman was entitled for restitution of his original pay structure and continuity of service and directed the respondents to pay all the benefits that the workman is entitled to on account of restoration of his increments. Consequent monetary benefits were also directed to be paid. The A.P.S.R.T.C. has filed the writ petition aggrieved by the award.

In the facts and circumstances adverted to supra, this Court discerns no error in the application of law or exercise of discretion, by the Court below warranting interference in this writ petition. As the evidence on record, even according to the appellate authority did not justify the conclusions of the primary authority as to the guilt of the workman in respect of charges leveled against him, there was no justification to record a finding of guilt or misconduct. In the absence of any guilt or misconduct of an employee/workman, no question of imposition of any penalty arises. This is a view taken by the Labour Court, a view which is impeccable.

The writ petition is devoid of merits beseeches dismissal and is accordingly dismissed. No costs. The benefits under the award dated 26-12-1998 in I.D.No.29 of 1996 which were due and payable to the first respondent-employee(deceased) shall, without demur or delay, be paid to the legal representatives of the deceased-workman with utmost expeditious and in any event within a period of two(2) months from the date of receipt of a copy of this order.

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GODA RAGHURAM,J

*TSNR/PVSN

TO

1.The Indl.Tribunal-cum-labour Court at Warangal.

2. Two CCs to G.P. for Labour

3. Two C.D copies.

THE HON'BLE MR JUSTICE GODA RAGHURAM

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Order

in

WRIT PETITION NO : 21267 of 1999

13th July 2004

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***TSNR/PVSN**

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